

voluntary separation incentive authority in effect on the effective date of this subsection [see Effective Date note above] may continue to offer voluntary separation incentives consistent with that authority until that authority expires.”

SENSE OF CONGRESS

Pub. L. 107-296, title XIII, §1313(c), Nov. 25, 2002, 116 Stat. 2296, provided that: “It is the sense of Congress that the implementation of this section [enacting this subchapter, amending sections 8336 and 8414 of this title, enacting provisions set out as notes under this section and section 8336 of this title, and repealing provisions set out as notes under sections 8336 and 8414 of this title] is intended to reshape the Federal workforce and not downsize the Federal workforce.”

§ 3522. Agency plans; approval

(a) Before obligating any resources for voluntary separation incentive payments, the head of each agency shall submit to the Office of Personnel Management a plan outlining the intended use of such incentive payments and a proposed organizational chart for the agency once such incentive payments have been completed.

(b) The plan of an agency under subsection (a) shall include—

- (1) the specific positions and functions to be reduced or eliminated;
- (2) a description of which categories of employees will be offered incentives;
- (3) the time period during which incentives may be paid;
- (4) the number and amounts of voluntary separation incentive payments to be offered; and
- (5) a description of how the agency will operate without the eliminated positions and functions.

(c) The Director of the Office of Personnel Management shall review each agency’s plan and¹ may make any appropriate modifications in the plan, in consultation with the Director of the Office of Management and Budget. A plan under this section may not be implemented without the approval of the Directive² of the Office of Personnel Management.

(Added Pub. L. 107-296, title XIII, §1313(a)(1)(A), Nov. 25, 2002, 116 Stat. 2292.)

§ 3523. Authority to provide voluntary separation incentive payments

(a) A voluntary separation incentive payment under this subchapter may be paid to an employee only as provided in the plan of an agency established under section 3522.

(b) A voluntary incentive payment—

- (1) shall be offered to agency employees on the basis of—
 - (A) 1 or more organizational units;
 - (B) 1 or more occupational series or levels;
 - (C) 1 or more geographical locations;
 - (D) skills, knowledge, or other factors related to a position;
 - (E) specific periods of time during which eligible employees may elect a voluntary incentive payment; or

(F) any appropriate combination of such factors;

(2) shall be paid in a lump sum after the employee’s separation;

(3) shall be equal to the lesser of—

(A) an amount equal to the amount the employee would be entitled to receive under section 5595(c) if the employee were entitled to payment under such section (without adjustment for any previous payment made); or

(B) an amount determined by the agency head, not to exceed \$25,000;

(4) may be made only in the case of an employee who voluntarily separates (whether by retirement or resignation) under this subchapter;

(5) shall not be a basis for payment, and shall not be included in the computation, of any other type of Government benefit;

(6) shall not be taken into account in determining the amount of any severance pay to which the employee may be entitled under section 5595, based on another other¹ separation; and

(7) shall be paid from appropriations or funds available for the payment of the basic pay of the employee.

(Added Pub. L. 107-296, title XIII, §1313(a)(1)(A), Nov. 25, 2002, 116 Stat. 2293.)

§ 3524. Effect of subsequent employment with the Government

(a) The term “employment”—

(1) in subsection (b) includes employment under a personal services contract (or other direct contract) with the United States Government (other than an entity in the legislative branch); and

(2) in subsection (c) does not include employment under such a contract.

(b) An individual who has received a voluntary separation incentive payment under this subchapter and accepts any employment for compensation with the Government of the United States with¹ 5 years after the date of the separation on which the payment is based shall be required to pay, before the individual’s first day of employment, the entire amount of the incentive payment to the agency that paid the incentive payment.

(c)(1) If the employment under this section is with an agency, other than the Government Accountability Office, the United States Postal Service, or the Postal Regulatory Commission, the Director of the Office of Personnel Management may, at the request of the head of the agency, may² waive the repayment if—

(A) the individual involved possesses unique abilities and is the only qualified applicant available for the position; or

(B) in case of an emergency involving a direct threat to life or property, the individual—

(i) has skills directly related to resolving the emergency; and

¹ So in original. Probably should be “and”.

² So in original. Probably should be “Director”.

¹ So in original.

¹ So in original. Probably should be “within”.

² So in original.